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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/708,267

02/20/2004

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085804-096703/CIP

2266

76058

7590

12/23/2008

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EXAMINER

BANTAMOI, ANTHONY

ART UNIT

PAPER NUMBER

2423

MAIL DATE

DELIVERY MODE

12/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/708,267	Applicant(s) ABRAMSON ET AL.	
	Examiner ANTHONY BANTAMOI	Art Unit 2423	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4-6, and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markel et al US Patent 7,213,255, in view of McTernan et al US Patent Publication 2001/0029523, in view of Mayer US Patent Publication 2004/0128343, in view of Robbin et al US Patent 6,934,812, in view of Taylor US Patent 6,981,227 (hereafter referenced as Markel, McTernan, Mayer, Robbin, and Taylor).

Regarding claim 1, Markel teaches a client system comprising a mass storage device (figure 3, labels 312, & 314 (combined)), a receiver 300 for receiving and storing video data and interactive content in storage which meets "a download manager retrieving and storing in the mass storage device a portion of a first file comprising video content and a second file comprising an interactive element" (column 4, 8-10), Markel teaches an interactive TV producer 326 which presents the retrieved video and interactive element from storage 314 wherein the interactive element and the video are

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displayed in the same window which reads on “presentation manager; retrieving a second file from mass storage” (column 4, 5-7 & 11-13).

Markel is silent about a bandwidth measurement device determining the bandwidth of a network connection over which a content file is downloaded; the size of the portion of the first file responsive to the bandwidth determination made by the bandwidth measurement device; (i) retrieving the portion of the first file from mass storage, (ii) displaying with a standard media player application video content represented by the portion of the first file, (iii) retrieving the second file from mass storage, and (iv) displaying with a standard media player application the interactive element semi-transparently over the video content, wherein the remainder of the first file is downloaded in response to the presentation manager displaying the retrieved portion of the first file.

Mcternan teaches a bandwidth measurement device determining the bandwidth of a network connection over which a content file is downloaded (Para. 0045, ll. 6 – 10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Markel to include a bandwidth measurement device determining the bandwidth of a network connection over which a content file is downloaded as taught by Mcternan in order to account for variation in client capabilities thereby, efficiently distribute rich media content.

Markel and Mcternan are silent about the size of the portion of the first file responsive to the bandwidth determination made by the bandwidth measurement device; (i) retrieving the portion of the first file from mass storage, (ii) displaying with a

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standard media player application video content represented by the portion of the first file, (iii) retrieving the second file from mass storage, and (iv) displaying with a standard media player application the interactive element semi-transparently over the video content, wherein the remainder of the first file is downloaded in response to the presentation manager displaying the retrieved portion of the first file.

Meyer teaches splitting each program into at least two complementary program segments A and B and by downloading download segment A, a determination can be made of the expected available bandwidth with meets “the size of the portion of the first file responsive to the bandwidth determination made by the bandwidth measurement device” (Para. 0031, ll. 4-6, & Para. 0049, ll. 14-17).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify system of Markel and Mcternan to include the size of the portion of the first file responsive to the bandwidth determination made by the bandwidth measurement device as taught by Mayer in order to support program distribution using partial caching, thereby providing users with a tailored quality experience despite bandwidth limitations.

Markel, Mcternan and Mayer are silent about (i) retrieving the portion of the first file from mass storage, (ii) displaying with a standard media player application video content represented by the portion of the first file, (iii) retrieving the second file from mass storage, and (iv) displaying with a standard media player application the interactive element semi-transparently over the video content, wherein the remainder of

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the first file is downloaded in response to the presentation manager displaying the retrieved portion of the first file.

Robbin teaches a media player and an method of operating a media player which meets “standard media player” (column 3, 1-2), retrieving the portion of the first file from mass storage, displaying with a standard media player application video content represented by the portion of the first file (column 9, 51-57), wherein the remainder of the first file is downloaded in response to the presentation manager displaying the retrieved portion of the first file (column 9, 59-62 (media is audio video content (column 4, 38-39)).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Markel, Mcternan and Mayer to include retrieving the portion of the first file from mass storage, displaying with a standard media player application video content represented by the portion of the first file, wherein the remainder of the first file is downloaded in response to the presentation manager displaying the retrieved portion of the first file as taught by Robbin in order to support instant payback functionality.

Markel, Mcternan, Mayer and Robbin are silent about displaying the interactive element semi-transparently over the video content.

Taylor teaches displaying a video 208 and a user interface 210 being displayed simultaneously on the display device 206 wherein the user interface 210 is transparently displayed over the video stream 208 which reads on “displaying the interactive element semi-transparently over the video content” (column 7, 32-39).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Markel, Mcternan, Mayer and Robbin to include displaying the interactive element semi-transparently over the video content as taught by Taylor avoid obscuring video images while displaying interactive contents with the video simultaneously.

Regarding claim 4, Markel, Mayer, Robbin, and Taylor are silent about the client system, wherein the bandwidth measurement device comprises a timer.

Mcternan inherently teaches the client system, wherein the bandwidth measurement device comprises a timer (Para. 0045, ll. 6 – 10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Markel, Mayer, Robbin, and Taylor to include the client system, wherein the bandwidth measurement device comprises a timer as taught by Mcternan in order to account for variation in client capabilities thereby, efficiently distribute rich media content.

Regarding claim 5, Markel, Mayer, Robbin, and Taylor are silent about the client system wherein the download manager and the bandwidth measurement device comprise a single process.

Mcternan teaches the client system wherein the download manager and the bandwidth measurement device comprise a single process (Para. 0045, ll. 6 – 10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Markel, Mayer, Robbin, and Taylor to include the client system wherein the download manager and the bandwidth

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measurement device comprise a single process as taught by McTernan in order to account for variation in client capabilities thereby, efficiently distribute rich media content.

Regarding claim 6, Markel teaches a browser used to displaying enhanced video content on client device which reads on “the client system wherein the download manager comprises a thread process” (column 7, 41-43 (Note that HTML codes are executed sequentially or as threads)).

Regarding claim 8, Markel teaches an interactive TV produce 326 comprising a software program which reads on “the client system wherein the presentation manager comprises a threaded process” (column 4, 7-8 (program codes are executed in sequence or threads)).

Regarding claim 9, Markel teaches a window media layer 320 configured to combine the interactive element and the video data to be produced on the computer monitor 302 by the producer 326 which reads on “the client system, wherein the presentation manager comprises a Windows Media Player application” (figure 3).

4. Claims 10, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robbin, in view Markel, in view Taylor.

Regarding claim 10, Robbin teaches (a) retrieving a first content file (figure 6, step 606), (b) terminating retrieval of the first content file before the entire content file is retrieved (figure 6, step 614), (c) storing the retrieved portion of the first content file in a mass storage device (figure 6, step 608), (d) displaying with a standard media player

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application content represented by the portion of the first content file (column 9, 55-57), (g) retrieving, in response to step (d), the remainder of the first content file (column 9, 59-62); Robbin teaches a media player which meets "standard media player" (column 3, 1-2).

Robbin is silent about (e) retrieving a second file from mass storage representing an interactive element; (f) displaying semi-transparently over the displayed video content an interactive element represented by the second file.

Markel teaches (e) retrieving a second file from mass storage representing an interactive element (figure 3, label 320).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Robbin to include (e) retrieving a second file from mass storage representing an interactive element as taught by Markel in order to provide program preview functionality in a set top box.

Robbin and Markel are silent about (f) displaying semi-transparently over the displayed video content an interactive element represented by the second file.

Taylor teaches displaying the interactive element semi-transparently over the video content (column 7, 32-39).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Robbin and Markel to include displaying the interactive element semi-transparently over the video content as taught by Taylor in order to avoid obscuring video images while displaying interactive contents with the video simultaneously.

Regarding claim 14, Robbin, Markel and Mcternan are silent about the method further comprising the step of receiving user input via the displayed interactive element.

Taylor teaches adjusting transparency level interactive element by user input means which reads on “the method further comprising the step of receiving user input via the displayed interactive element” (column 4, 61-66).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Robbin, Markel and Mcternan to include the method further comprising the step of receiving user input via the displayed interactive element as taught by Taylor in order to avoid obscuring video images while displaying interactive contents with the video simultaneously.

Regarding claim 15, Robbin teaches the method wherein step (d) and step (g) occur substantially concurrently (column 9, 55-57, & 59-62).

Regarding claim 16, Robbin teaches the method further comprising the step of displaying with a standard media player application content represented by the remainder of the first content file (column 9, 55-62).

Regarding claim 17, Robbin teaches computer-readable program means for retrieving a first content file (figure 6, step 606), computer-readable program means for terminating retrieval of the first content file before the entire content file is retrieved (figure 6, step 614), computer-readable program means for storing the retrieved portion of the first content file in a mass storage device (figure 6, step 608), computer-readable program means for displaying with a standard media player application content represented by the portion of the first content file (column 9, 55-57), computer-readable

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program means for retrieving the remainder of the first content file (column 9, 59-62); Robbin teaches a media player which meets " a standard media player " (column 3, 1-2).

Robbin is silent about computer-readable program means for retrieving a second file from mass storage representing an interactive element; computer-readable program means for displaying application semi-transparently over the displayed video content an interactive element represented by the second file.

Markel teaches computer-readable program means for retrieving a second file from mass storage representing an interactive element (figure 3, label 320).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Robbin to include computer-readable program means for retrieving a second file from mass storage representing an interactive element as taught by Markel in order to provide program preview functionality in a set top box.

Robbin and Markel are silent about computer-readable program means for displaying application semi-transparently over the displayed video content an interactive element represented by the second file.

Taylor teaches computer-readable program means for displaying application semi-transparently over the displayed video content an interactive element represented by the second file (column 7, 32-39).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Robbin and Markel to include

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computer-readable program means for displaying application semi-transparently over the displayed video content an interactive element represented by the second file as taught by Taylor in order to avoid obscuring video images while displaying interactive contents with the video simultaneously.

5. Claims 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robbin, in view Markel, in view Taylor, Mcternan.

Regarding claim 11, Robbin teaches (b-b) terminating retrieval of the content file before the entire content file is retrieved, the termination responsive to a bandwidth determination made in step (b-a) (figure 6, steps, 612, & 614).

Robbin, Markel and Taylor are silent about the method wherein step (b) comprises: (b-a) determining the bandwidth of a network connection over which the content file is retrieved.

Mcternan teaches (b-a) determining the bandwidth of a network connection over which the content file is retrieved (Para. 0045, ll. 6 – 10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Robbin, Markel and Taylor to include (b-a) determining the bandwidth of a network connection over which the content file is retrieved as taught by Mcternan in order to account for variation in client capabilities thereby, efficiently distribute rich media content.

Regarding claim 13, Robbin, and Markel are silent about the method wherein step (a) comprises retrieving from a multicast network a content file representing video content.

Mcternan teaches the method wherein step (a) comprises retrieving from a multicast network a content file representing video content (figure 3, label 370).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Robbin, and Markel to include the method wherein step (a) comprises retrieving from a multicast network a content file representing video content as taught by Mcternan in order to account for variation in client capabilities thereby, efficiently distribute rich media content.

6. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markel, in view of Mcternan, in view of Mayer, in view of Robbin, in view of Taylor, in view of Baker et al US Patent 5,583,561 (hereafter referenced as Baker).

Regarding claim 2, Markel, Mcternan, Mayer, Robbin and Taylor are silent about the client system, wherein the mass storage device comprises a redundant array of independent disks.

Baker teaches a storage consisting of up to 4000 disks which reads on "the client system, wherein the mass storage device comprises a redundant array of independent disks" (column 6, 41-42).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Markel, Mcternan, Mayer, Robbin

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and Taylor to include the client system, wherein the mass storage device comprises a redundant array of independent disks as taught by Baker in order to increase the storage capacity.

Regarding claim 3, Markel, Mcternan, Mayer, Robbin and Taylor are silent about the client system wherein the mass storage device comprises a network storage solution.

Baker teaches storage in a storage for a video on demand library which reads on “the client system wherein the mass storage device comprises a network storage solution” (column 6, 36-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Markel, Mcternan, Mayer, Robbin and Taylor to the client system wherein the mass storage device comprises a network storage solution as taught by Baker in order to increase the storage capacity.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Markel in view of Mcternan, in view of Mayer, in view of Robbin, in view of Taylor, in view of Kato et al US Patent Publication 2003/0140349 (hereafter referenced as Kato).

Regarding claim 7, Markel, Mcternan, Mayer, Robbin and Taylor are silent about the client system wherein the download manager comprises one of the groups consisting of an ActiveX control and a JAVA applet.

Kato teaches embedding a Java Applet and ActiveX control in a browser in order to generate a graphic display which meets “the client system wherein the download

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manager comprises one of the groups consisting of an ActiveX control and a JAVA applet” (Para. 0295, ll. 6-8).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Markel, Mcternan, Mayer, Robbin and Taylor to include the client system wherein the download manager comprises one of the groups consisting of an ActiveX control and a JAVA applet as taught by Kato in order to provide a system independent presentation platform.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robbin, in view of Markel, in view of Taylor, in view of Vigue et al US Patent Publication 2003/0163702 (hereafter referenced as Vigue).

Regarding claim 12, Robbin, Markel and Mcternan are silent about the method wherein step (a) comprises retrieving from a peer-to-peer network content file representing video content.

Vigue teaches a peer-to-peer implementation of a computer network for data sharing which reads on “the method wherein step (a) comprises retrieving from a peer-to-peer network content file representing video content” (Para. 0029, ll. 1-4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method Robbin, Markel and Mcternan to include the method wherein step (a) comprises retrieving from a peer-to-peer network content file representing video content as taught by Vigue in order to provide secured data sharing.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY BANTAMOI whose telephone number is (571)270-3581. The examiner can normally be reached on Monday - Friday 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272 7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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